

Allen Morsley  
Petitioner,

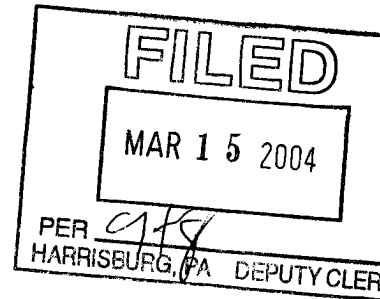
Case # 1:01-CV-01003

VS.

DONALD ROMINE  
respondent,

\*  
\*  
\*  
\*

*now to*



PETITIONERS MOTION FOR RECONSIDERATION  
OF ORDER DENYING MOTION TO AMEND TO CONFORM EVIDENCE  
PURSUANT TO RULE 15(b) OF FEDERAL RULES OF CIVIL PROCEDURE WITH  
INCORPORATED MEMORANDUM OF LAW. IN LIGHT OF 59 (e) MOTION TO AMEND AND ALTER JUDGEMENT

NOW COMES , Allen Morsley ( hereinafter " petitioner " ), appearing pro se, in the above captioned matter , and herby [R]espectfully moves th- is Honorable to Reconsider [O]rder Dated March. 1st 2004 . Denying #1 . Motion to appoint Counsel / #2. Motion to Amend to Conform Evidence ' Pursuant to Rule 15(b) Of Federal Rules of Civil Procedure With incorpora- ted Memorandum of Law / # 3. Motion to Alter and Amend Judgment pursuant to Rule 59 (e) Of Federal Rules of Civil Procedure .

THE PETITIONER SUBMITS THE FOLLOWING :

# 1.

The petitioner has Argued that he is being [I]llegally Detained In Violation Of the United States Constitution . [W]hich States that **Know person** should be [H]eld to **Answer** for A Capital or [O]therwise Infamous Crime , unless On a Presentment or indictment of A [G]rand [J]ury . Nor be Deprived of Life , **Libery** , Or property [W]ithout **Due [P]rocess** Of Law .

#2.

On **Dec. 18th 2001** . The petitioner Respectfully moved this Honorable court' (By Motion) Pursuant to **Title 18 U.S.C.A. Section 3006(a)(2)(3)(5)(g)** , and **Title 28 U.S.C.A. , Section 1951 (a)(1)(e)(1)**, The Due Process Clause Of t- he United States , And The " Interest Of Justice " [T]o appoint Counsel .

#3.

On Aug 7th. 2003 The petitioner respectfully submitted Motion To Amend To Conform To Evidence petition pursuant to Rule 15(b) of - Federal rules of Civil Procedure , With incorporated **Memorandum Of Law** . [I]ncluded therein submitting **Thirty Five (35)** [E]xhibits' [I]ntroduced Containing " **Knewly Discovered Evidence** " SEE **EXHIBIT # 1. (G). Through 1. (G). 11 .** ( Web Dated 7/27/2003. ) ALSO SEE **# 1.(J).1** To name Just a Few . As petitioner has from the on-set , Diligently Attempted to **expose** the **Manifest Injustice** that [I]s taking place . While counsel for the respondent has continued to **[P]rotract Litigation** without **ever** being compelled to Answer the **[C]laim** ' Of whether or not Alleged **indictment** is Void and [U]nreliable .

#### STANDARD OF REVIEW

HAINES VS. KERNER, 404 U.S. 519 , 30 L.Ed.2d 625 ; As the petitioner is a layman of Law , Petitioners Litigations should be ' Held to less stringent standards than that of an Attorney .

#### THRESHOLD MATTER

This is A **Habeas Corpus** matter brought Under **28 U.S.C. Section 2241** by the petitioner ' who argues that he is **being [U]nlawfully [D]etained** by an Officer of the United States Government . " By **[F]ar The Most Powerful Government On [E]arth ."** [O]nly Bound by the [L]aw , By which [I]t Stands ... . On the other Hand , You have an **indigent Layman** of [Law] ' Who has know other recourse but [T]he **Judicial Process** . Due Process **requires** at a minimum , that persons [F]orced to settle their [C]laims of **Rights** through the Judicial Process Must be given a **Meaningful** Opportunity to be heard . Further , There is know Case of Controversy [U]ntil the [O]pposing party Denies that the petitioner is being **illegally Detained** .

The **[G]rand [J]ury** Can-not **Delegate** its Independent Authority ( **To " Indict "** ) To the Clerk of Courts - A Trial Judge - Nor the **Appellant Judge** .

THRESHOLD MATTER CONTINUED :

The Trial [J]udge ( **James C. Fox** ) In the Case before this Honorable Court ; Stated On The Record :

" That the [G]rand [J]ury **Indicted somebody** " **and he [t]hought** that it was a question . . . for the **petite jury** to [D]ecide who that **person was.** "

The Petitioners Motion For Reconsideration Of this Courts Orders , is being Submitted in the [I]nterest of Justice ; Also to **prevent** A Manifest Injustice . **for** the petitioner has been held to answer for a crime without the Safe Gaurds that The **Grand Jury Clause** [P]rotects . Holding up a person to **ridicule , scorn or Contempt** in a respectable and **Considerable** part of the **community** ; may be **Criminal** ' as Well as **Civil** . As the petitioner has suffered a **Defamation** of the Worst kind , To recover against a public offical [O]r public figure , The petitioner must prove that the Defamatory Accusation was **published with Malice .** ; Malice used in this context means that[I]t was published **either** knowing that it was **false** or with a **reckless** disregard as to whether it was **true or false** . SEE NEW YORK TIMES CO . VS. SULLIVAN , 376 U.S. 254 , 84 Sct. 710 , 11 L.Ed. 2d. 686 .

**ARGUMENT # 1.**

Counsel for the respondent has Never **even** used the word **indicted** . . . **indictment** [O]r **Grand Jury** since May 28th 2001 when the petitioner filed **habeas Corpus** **petition** under section 2241 . Yet he opposed **In Camera** inspection of the **Original Documents** ; Atleast until it was - Decided whether petitioner Could Maintain **2241 Motion** . ( SEE MOTION- IN OPPOSITION OF DOCUMENTARY EVIDENCE ) But in this Honorable Judges Opinion **denying 59 (e)** Motion , This Court States : That Petitioners Argument That He has [N]ever been **Indicted** is Without Merit ; And has no **Bases** in [F]act . SEE PAGE # 2 )

STATING :

Stating Therein :

" [I]t is Clear from a Review of the United States " District Court for the Eastern District of North Carolina Docket Sheet , that at the Time of - The Grand Jury Indictment On [O]r About July 24th 1993 , That the petitioner was identified As John Doe , Aka Raleek ."

Futher Stating :

" [I]n the Factual Background Section Of the Opini- on addressing Morsleys Direct Appeal , The Court Specifically states that in July of 1993 , Morsley was indicted with Six (6) Other Persons [I]n a 96 Count Indictment .

" [C]learly , The petitioner Has Failed to Demons- rate an intervening change of Law , The Exsistence of New Evidence Or , The Need to Correct A- Clear Error Of Law . ( SEE PAGE # 2 )

Ironically , This Only [F]uther Complicates the matter , For One (1) There were Know Witnesses Before A Grand Jury To Testifie [O]r identifie the petitioner . Nor where there Any [P]hotographs of the - Petitioner that [C]ould Be [I]dentified ( Until Sept 23.1993 When the petitioner was abducted ) Neither were there any Discriptions' [I]n the Alleged Indictment . Secondly (2) while the Docket Sheet of the United States District Court For The Eastern District Of North Carolina May ( Conflictingly ) Place the time Of the Alleged [G]rand Jury Indictment On Or About July 24 th 1993 . The B- ogus Alleged Indictment that the petitioner now holds in his hand , was erroneously Filed On July 6. 1993 with The United States Distr- ict Court For The Eastern District Of North Carolina . SEE EXHIBIT# ( 1 ) Also Signed By Christine Hamilton And Dated 7-6-93 SEE EX- HIBIT # ( 2 ) .

As for the Factual Background Section of the Opinion addressing Mo- rsleys Direct Appeal ? Although the Appeal Court [S]pecifically ' States ' That In July of 1993 , Morsley Was Indicted With (6) Six Other Persons [I]n A 96 Count Indictment . The Alleged Indictment States ( 8 ) Other People .

1. Clyoe Andrea Hendricks
2. Melvin Adams
3. Anthony B. Holley
4. Stanley Leach
5. Lenton Earl Jordan
6. Fletcher Johnson
7. John Doe
8. Tuval McKoy
9. Lori Ann Perry Hendricks

Although this Honorable Judge ruled that the Petitioner's argument had know bases in fact and decided an issue concernign the independent role of the grand jury, without any references to their deliberation-identification [o]r their will to indict. Based on the district docket sheet, and the factual background section of the Fourth Circuit Court of Appeals opinion addressing Morsley's argument of conflict of interest with attorney/404(b)/insufficiency of evidence/ and Petitioner's claim that he was not allowed to object to PSI on direct appeal.

The Petitioner's appeal counsel was certainly ineffective for not challenging the pretention that the [g]rand jury indicted "someone". But [i]f Petitioner may call this court's attention to the fact that the Fourth Circuit Court of Appeals has been squarely presented with the argument that Petitioner has never been indicted. (See Case No. 97-7813). In an unpublished opinion stating therein that didn't have jurisdiction to hear the claim. See, U.S. v. Morsley, 153 F.3d 724 (4th Cir. 1998). Therein the Petitioner also raised a Bailey claim 3 months after Bousley was decided. Stating: that Teague v. Lane was inapplicable when the court decides the meaning of a statute. These arguments have never been ruled upon by the Fourth Circuit Court of Appeals.

The Petitioner specifically states that the grand jury did not indict the Petitioner for the infamous crime that he is being illegally detained for.

In violation of the grand jury clause of the United States Constitution, of due process, and equal protection under the law.

### ARGUMENT #2

As for the matter of subject matter jurisdiction, this Honorable Judge has not denied that it can never be waived, or procedurally defaulted. So the court erred when it denied the motion for documentary evidence in accordance with 28 U.S.C. Section 2241 of Federal Civil Judicial Procedures and Rules filed February 13th, 2003. Therein, the Petitioner moved this Honorable judge pursuant to 2241 [o]r any other rule this court found appropriate to compel (original) documentary evidence associated with Petitioner's alleged indictment "for in camera" [i]nspection.

Thereafter, Respondent filed a brief in opposition to Petitioner's motion for evidence (dated March 18th, 2003) stating:

"To permit discovery [b]efore" it is even determined whether Morsley can maintain this 2241 claim would be burdensome and a waste of time."

The rub is that when this Honorable Judge denied habeas petition (order on July 31, 2003) this Honorable Judge based this opinion on the premises that the Petitioner's argument was that the indictment had been amended..... a fact that had been raised and addressed in 59(e) motion. In other words, there was know question that the 2241 petition could be maintained on the grounds of subject matter jurisdiction. And counsel should have been immediately appointed, and discovery motions revisited.

On December 18th, 2001, the Petitioner respectfully moved this Honorable Court (by motion) pursuant to Title 18 U.S.C.A. Section 3006(a)(2)(3)(5)(g), and Title 28 U.S.C.A., Section 1915(a)(1)(e)(1), the due process clause of the United States Constitution, and in the "interest of justice" for appointment of counsel' the Petitioner explains that he had accidentally stated that Petitioner

is [g]uilty! (See page #6 Motion for Appointment of Counsel).

This Honorable Court, thereafter responded by [o]rder denying motion for appointment of counsel, therein stating that the Petitioner would not be prejudice for lack of effective assistance of counsel.

On October 26, 2001, the Petitioner resepectfully moved this Honorable Court (by motion) pursuant to Rule 36(a) of Federal Rules of Civil Procedure ("Request for Admissions") giving Respondent the perfect opportunity to deny [o]r admit that the Petitioner is being illegally detained. (Yet counsel for the Respondent avoided these [e]ssential questions by protracting argument.)

On November 26, 2001, the Petitioner respectfully submitted reply brief in support of request for admissions (36(a)). Further questioning [w]hy counsel for the Respondent hadn't "just" [d]enied that the Petitioner has [n]ever been indicted by a grand jury (see page #3-6). Also [a]skeing [h]ow the name 'Raleek aka Baldhead' had become a part of the alleged indictment by the time Petitioner was called for bond hearing (see page #16). Also citing law relevant to this question. See United States v. Day, 713 F.Supp. 377 (N.D. Ala. 1998). Concluding, that the Petitioner is entitled to use procedures and facilities to [p]rove his detention is illegal.

On June 23rd, 2003, the Petitioner respectfully submitted reply brief in support of motion for documentary evidence as Respondent argued that discovery should be stayed, [u]til 2241 motion is resolved (in conclusion, the Petitioner asked that a trial be commenced....)

Furthermore, the petition agrees with this Honorable Judge, a motion under Rule 59(e), is a "device to relitigate original issue" decided by the district court, and used to allege legal error. Smith v. Evans, 853 F.2d 155, 158-59 (3d Cir. 1988); see also Ortho Pharm Corp v. Amgen, Inc., 887 F.2d 460, 463 (3d Cir. 1989), "supporting [s]pecifically" the available of new evidence as a ground to alter and amend judgment. Furthermore, making 59(e) applicable when

the need to correct clear error of Law . and also to prevent a [M]anifest Injustice . NORTH RIVER INS CO. VS. CIGNA REINSURANCE CO., 52 F2d. 1194 , 1218(3d.Cir 1995 ). SEE ALSO HARSO CORP. VS. ZLOTNICK , 779 906 ( 3rd. Cir 1985 );

On Aug 7th 2003 the petitioner respectfully submitted Motion To Amend To Conform To Evidence , Pursuant to Rule 15 (b) Of the Federal Rules Of Civil Procedure - With Incorporated Memorandum Of Law , With **Thirty Five (35)** Exhibits ( Some Of Which had been introduced as " Knewly Discovered Evidence." SEE Exhibit # **1.(G).** Through **1.(G).11** (Web Dated 7/27/2003). Also See # **1.(J).1** .

THE PETITIONER ALSO SUBMITTED NUMEROUS **EXHIBITS** SHOWING HOW THE ALLEGED INDICTMENT / Which bears the **Signature** of " **Christine Hamiton** " And the Mock Trial that' She Conducted were **[V]oid And [U]nreliable** . Also that the Trial Judge **Abandoned** the Trial Court in the **Presence** of the **Petite Jury** . But Most Importantly , that The trial Judge Allowed a Trial to Be Commenced.' In Federal Court ... After starting in **[O]pen Court** " That the **Grand Jury** Indicted **[S]omebody ?** And he thought. That it was the **[D]uty** Of **[A]nother To Decide** who that Person Was . Believing that it was not his duty to **make Certain** that he wasnt trying Everybody .

### **ARGUMENT # 3.**

Petitioners **Habeas Petition** was **[I]ncorrectly Denied** Under the Assumption that the Petitioner Arguing that **Indictment** Was **[M]erely Amended** . This Honorable Judges' Order **Denying 59 (e)** Clearly Shows that , For Lack Of Understanding Argument, **Habeas Petition** Was Dismissed in **Error** . And Must Be **Re-litigated** to Prevent A **Mis-carriage of Justice** .



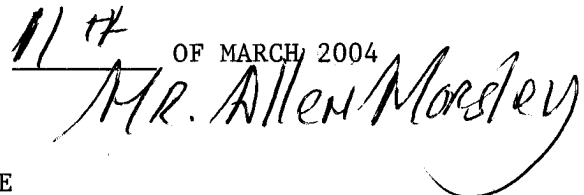
For the Courts Had know Jurisdiction at all times Relevant to this Controversy. Nor has there been a Clear Connection made to the **Grand Jury** And The petitioner. Or At What Point [I]f' Any has there been a **meaningful** Attempt for Counsel [o]f the Respondent To Defend his Client , Who the petitioner has Made A Claim Against.

Counsel for the repondent **Questions** concerning whether the 2241 **motion** could be maintained . Must be answered in the Affirmative . And **Habeas Petition** Re-opened so that the petitioner and respondents Controversy might be judged by **Original** Documents / And Litigations **based** on Proof that has been **Weighed** in Accordance **wi**th the **Constutution** of the United States .

#### CONCLUSION

The Petitioner Prays that this Honorable Judge Will **Appoint** Counsel , So that A Hearing May be Conducted . And When Counsel For the **Respondent Cant** ' **Denie** that the' Petitioner Is Being Illegally **Detained** Without Committing **Perjury** . **The Petitioner** Prays that he Will Be Released with Out **Further Delay** .

RESPECTFULLY SUBMITTED THIS 11th DAY

11 # OF MARCH 2004  


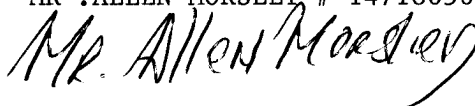
#### CERTIFICATE OF SERVICE

I THE PETITIONER , HEREBY CERTIFIE UNDER THE PENALTYS OF PERJURY , THAT I HAVE PLACED SAID MOTION IN THE MAIL ADDRESSED TO COUNSEL FOR THE RESPONDENT WITH PREPAID POSTAGE

THIS DAY

11 #

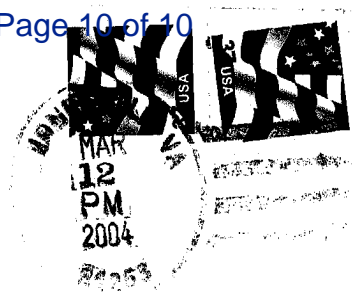
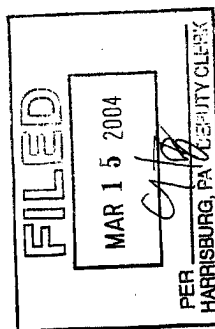
MR .ALLEN MORSLEY # 14718056



Allen Morsley # 14718056

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